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P.2.

ELECTION UNDER 35 USC §121
Examining Group 1632
Patent Application
Docket No. GJE-30
Serial No. 09/297,486

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Doran R. Pace
Doran R. Pace, Patent Attorney

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Richard Schnizer, Ph.D.
Art Unit : 1632
Applicants : John Francis Martin, Seppo Yla-Herttuala, Stephen George Edward Barker
Serial No. : 09/297,486
Filed : April 30, 1999
For : Therapeutic Use of an Agent That Stimulates NO or Prostacyclin Production
and Delivery Device

Assistant Commissioner for Patents
Washington, D.C. 20231

ELECTION UNDER 35 USC §121

Sir:

In response to the written Restriction Requirement dated August 7, 2001 in the above-identified patent application, Applicants hereby elect to prosecute the invention of Group II (claims 1-9, 14, 15, and 37) with traverse.

Applicants note that PCT Rule 13 was applied during the PCT phase of the corresponding international application and found to be satisfied in regard to the claims directed to treatment or prevention of intimal hyperplasia. In the PCT phase, use of a VEGF receptor agonist or a nucleic acid encoding a VEGF receptor agonist for the treatment or prevention of intimal hyperplasia was found to relate to a single general inventive concept under PCT Rule 13.1. Applicants respectfully assert that the use of a VEGF receptor agonist or a nucleic acid encoding a VEGF receptor agonist for the treatment or prevention of intimal hyperplasia does relate to a single general inventive

concept under Rule 13.1. Accordingly, Applicants respectfully request reconsideration and withdrawal or modification of the Restriction Requirement.

In addition, Applicants wish to point out that the "Disposition of Claims" section on the Office Action Summary page of the written Restriction Requirement does not indicate that claims 37 and 38 are pending in the subject application; however, claims 37 and 38 were included in the Examiner's written Restriction Requirement. Applicants wish to clarify that claims 37 and 38 are pending along with claims 1-36.

Applicants invite the Examiner to call the undersigned if clarification is needed or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

Respectfully submitted,



Doran R. Pace
Patent Attorney
Registration No. 38,261
Phone No.: 352-375-8100
Fax No.: 352-372-5800
Address: 2421 N.W. 41st Street, Suite A-1
Gainesville, FL 32606-6669

DRP/sl